

Appl. No. 10/663,580
Amdt. dated July 7, 2006
Reply to Office action of March 7, 2006

REMARKS/ARGUMENTS

On the cover sheet of the office action of March 7, 2006, the Examiner checked off the box indicating that the drawings were objected to by the Examiner. Since the body of the Office action makes no mention of defects, it is assumed that this was done in error.

The error on page 3, line 7, noted by the Examiner has been corrected.

Claims 7 to 9 have been amended to remove the multiple dependency problem.

Claims 1 and 2 were rejected under 35 U.S.C. 112. Claim 1 has been amended to include the values mentioned in the specification. Claim 2 has been amended to overcome the rejection by more fully defining the alignment of the threaded holes.

Claims 1-4 were rejected under 35 U.S.C. 102(b) as being anticipated by Nuss et al. This rejection is respectfully traversed.

Nuss et al does not disclose bar end portions having a reduced thickness. Col. 4, lines 58-67 of Nuss et al. merely point out ranges of widths and thicknesses of the bars. They point out that thicker bars exhibit a higher bending stiffness. The reference does not indicate that a single bar has ends with a lesser thickness.

Claim 1 calls for two consecutive holes on the tapered portion of the bar ends, not in the end plates as asserted by the Examiner. Further, since the bar ends are not tapered, the wall thickness of each bar end portion of Nuss et al cannot have the same height as the slot region of each plate.

Claim 1 also calls for two consecutive holes on the tapered portion of the bar ends which match cooperative attaching elements in the respective slots. Nuss et al. does have a pair of holes 110 in the planer portion 107 but, according to the patentees "... there are two pairs of holes 110 ... aligned with a pair of holes 28

Appl. No. 10/663,580
Amdt. dated July 7, 2006
Reply to Office action of March 7, 2006

in the pectus bar 10..." Thus, and as is shown in the drawings, there is a hole 28 in each end of the bar 10 which constitutes "a pair of holes".

The Examiner asserts that Nuss et al. teaches that the plates are capable of being linked by threaded elements that may form removable and axially registerable attachments citing Col. 11, lines 11-21 and 37-56. These portions of the specification describe the rotation of the pectus bar by a tool and surgical procedure after emplacement of the bar. No mention is made of axially registerable attachments.

With regard to claim 4, Nuss et al. relates to pectus excavatum repair. Claim 4 relates to a method of Pectus Carinatum repair. The previously shaped bar is inserted in a pre-sternum tunnel so that the concave face of the bar compresses the chest deformity. Two fixing plates are applied to the costal planes and both plates are secured pericostally.

The Nuss et al. method is directed exclusively to pectus excavatum and cannot be applied to pectus carinatum and other chest deformities. Contrary to the Examiner's assertion, the fixing plates are applied to the costal planes. There are no fixing plates applied to the bones in Nuss et al. Moreover, in Nuss et al. the operation is only performed internally and behind the sternum (post sternum channel), while in this application the operation for the treatment of pectus carinatum is performed pre-sternum.

Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss et al in view of Dall et al. Since claim 1 is patentable over Nuss et al. for the reasons set forth above, it is submitted that claim 2 is, likewise, allowable.

Claims 5 and 6 were objected to as being dependent upon a rejected base claim. Since claim 4 is believed to be patentable for the reasons set forth, it is believed that claims 5 and 6 are allowable.

Appl. No. 10/663,580
Amdt. dated July 7, 2006
Reply to Office action of March 7, 2006

For the reasons stated it is believed that this application is now in condition for allowance and allowance of the this application is respectfully requested.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 36120.

Respectfully submitted,
PEARNE & GORDON LLP

By: 
Thomas P. Schiller, Reg. No. 20677

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

July 7, 2006